

**TWENTY-FOURTH DAY - FEBRUARY 13, 2008****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
SECOND SESSION****TWENTY-FOURTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, February 13, 2008

**PRAYER**

The prayer was offered by Pastor Jim Wooten, Federated Church, Columbus.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senators Carlson, Dierks, Dubas, Kruse, Raikes, and White who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-third day was approved.

**MESSAGE FROM THE GOVERNOR**

February 12, 2008

Mr. President, Mr. Speaker, and  
Members of the Legislature  
State Capitol  
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 39 without my signature and with my objections.

This legislation would create new restrictions to access the petition process under the Nebraska Election Act. The bill would require petition circulators to be electors, would restrict circulators from being paid based upon the number of signatures collected, and would create reporting requirements for total amounts paid to circulators.

In my view, the restrictions proposed by LB 39, when coupled with the signature threshold requirements that exist in current law, would unfairly inhibit the ability of citizens to petition their government. I do not believe that we should enact additional barriers to the powers of the initiative and the referendum that are reserved for the people in Article III of the Nebraska Constitution.

For these reasons, I respectfully urge you to sustain my veto of LB 39.

Sincerely,  
(Signed) Dave Heineman  
Governor

### ANNOUNCEMENT

Senator Chambers designates LB1063 as his priority bill.

### COMMITTEE REPORTS

Enrollment and Review

**LEGISLATIVE BILL 915.** Placed on Select File with amendment.  
ER8163

- 1 1. On page 1, lines 4 and 5, strike "section 77-2717" and
- 2 insert "sections 77-2717 and 77-5803"; and in line 6 after "tax"
- 3 insert ", tax credits,".

**LEGISLATIVE BILL 750.** Placed on Select File.

**LEGISLATIVE BILL 752.** Placed on Select File with amendment.  
ER8162

- 1 1. On page 1, line 1, before "Nebraska" insert "the".

**LEGISLATIVE BILL 856.** Placed on Select File.

**LEGISLATIVE BILL 857.** Placed on Select File.

**LEGISLATIVE BILL 744.** Placed on Select File.

**LEGISLATIVE BILL 747.** Placed on Select File.

(Signed) Amanda McGill, Chairperson

### SELECT FILE

**LEGISLATIVE BILL 823.** ER8154, found on page 523, was adopted.

Senator Schimek withdrew her amendment, AM1735, found on page 508.

Senator Schimek renewed her amendment, AM1786, found on page 551.

The Schimek amendment was adopted with 29 ayes, 0 nays, 10 present and not voting, and 10 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**WITHDRAW - Motion to LB395**

Senator Johnson withdrew his motion, found on page 1829, First Session, 2007, to bracket until January 9, 2008, to LB395.

**WITHDRAW - Amendments to LB395**

Senator Preister withdrew his amendment, AM893, found on page 1023, First Session, 2007, to LB395.

Senator Johnson withdrew his amendment, AM939, found on page 1102, First Session, 2007, to LB395.

The Mines amendment, AM1087, found on page 1277, First Session, 2007, was withdrawn.

Senator Johnson withdrew his amendment, AM1530, found on page 168.

**MOTION - Return LB395 to Select File**

Senator Johnson moved to return LB395 to Select File for his specific amendment, AM1736, found on page 567.

**SENATOR FRIEND PRESIDING**

**PRESIDENT SHEEHY PRESIDING**

Senator Kruse moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 10 nays, and 14 not voting.

The Johnson motion to return prevailed with 31 ayes, 10 nays, 7 present and not voting, and 1 excused and not voting.

**SELECT FILE**

**LEGISLATIVE BILL 395.** The Johnson specific amendment, AM1736, found on page 567, was renewed.

**SENATOR FRIEND PRESIDING**

Pending.

**COMMITTEE REPORTS**

Education

**LEGISLATIVE BILL 1089.** Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

Business and Labor

**LEGISLATIVE BILL 821.** Placed on General File with amendment.  
AM1868

- 1 1. On page 12, line 7, strike "one year" and insert "two
- 2 years".

(Signed) Abbie Cornett, Chairperson

General Affairs

**LEGISLATIVE BILL 723.** Placed on General File with amendment.  
AM1668

- 1 1. On page 5, line 1; and page 8, line 6, after "Code"
- 2 insert "and have met the continuing education requirement of
- 3 subsection (1) of section 81-2117.01".

**LEGISLATIVE BILL 1058.** Placed on General File with amendment.  
AM1866

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 Section 1. Section 71-816, Revised Statutes Cumulative
- 4 Supplement, 2006, is amended to read:
- 5 71-816 (1) The Legislature finds that the main sources
- 6 of funding for the Compulsive Gamblers Assistance Fund are the
- 7 Charitable Gaming Operations Fund as provided in section 9-1,101
- 8 and the State Lottery Operation Trust Fund as provided in section
- 9 9-812 and Article III, section 24, of the Constitution of Nebraska.
- 10 It is the intent of the Legislature that the Compulsive Gamblers
- 11 Assistance Fund be used primarily for counseling and treatment
- 12 services for problem gamblers and their families who are residents
- 13 of Nebraska.
- 14 ~~(4)-(2)~~ The State ~~Advisory~~ Committee on Problem Gambling
- 15 and Addiction Services is created. Members of the committee
- 16 shall have a demonstrated interest and commitment and specialized
- 17 knowledge, experience, or expertise relating to the provision of
- 18 problem gambling and addiction services in the State of Nebraska.
- 19 The committee shall consist of twelve members appointed by the
- 20 Governor and shall include at least three consumers of problem
- 21 gambling or addiction services. The committee shall appoint one of
- 22 its members as chairperson of the committee and other officers as
- 23 it deems appropriate. The committee shall conduct regular meetings

1 and shall meet upon the call of the chairperson or a majority of  
2 its members to conduct its official business.

3 (3) The committee shall develop and recommend to  
4 the division guidelines and standards for the distribution and  
5 disbursement of money in the Compulsive Gamblers Assistance  
6 Fund. Such guidelines and standards shall be based on nationally  
7 recognized standards for compulsive gamblers assistance programs.

8 (4) In addition, the committee shall develop  
9 recommendations regarding (a) the evaluation and approval  
10 process for provider applications and contracts for treatment  
11 funding from the Compulsive Gamblers Assistance Fund, (b) the  
12 use and expenditure of funds for education regarding problem  
13 gambling and prevention of problem gambling, and (c) the creation  
14 and implementation of outreach and educational programs regarding  
15 problem gambling for Nebraska residents. The committee may engage  
16 in other activities it finds necessary to carry out its duties  
17 under this section.

18 (5) Based on the recommendations of the committee, the  
19 division shall adopt guidelines and standards for the distribution  
20 and disbursement of money in the fund and for administration of  
21 problem gambling and addiction services in Nebraska.

22 (6) The division and the committee shall jointly submit  
23 a report within sixty days after the end of each fiscal year  
24 to the Legislature and the Governor that provides details of the  
25 administration of services and distribution of funds.

26 ~~(2) The committee shall be responsible to the division~~  
27 ~~and shall (a) conduct regular meetings, (b) provide advice and~~  
1 ~~assistance to the division relating to the provision of problem~~  
2 ~~gambling and addiction services in the State of Nebraska, (c)~~  
3 ~~evaluate applications for funding from the Compulsive Gamblers~~  
4 ~~Assistance Fund and make recommendations relating to disbursements~~  
5 ~~from the fund, (d) promote the interests of consumers and their~~  
6 ~~families, (e) provide reports as requested by the division, and (f)~~  
7 ~~engage in such other activities as directed or authorized by the~~  
8 ~~division.~~

9 Sec. 2. Section 71-817, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-817 The Compulsive Gamblers Assistance Fund is  
12 created. The fund shall include revenue transferred from the  
13 State Lottery Operation Trust Fund under section 9-812 and the  
14 Charitable Gaming Operations Fund under section 9-1,101 and any  
15 other revenue received by the division for credit to the fund from  
16 any other public or private source, including, but not limited  
17 to, appropriations, grants, donations, gifts, devises, bequests,  
18 fees, or reimbursements. The division shall administer the fund  
19 for the treatment of problem gamblers as recommended by the State  
20 ~~Advisory~~-Committee on Problem Gambling and Addiction Services  
21 established under section 71-816 and shall spend no more than ten  
22 percent of the money appropriated to the fund for administrative

23 costs. The Director of Administrative Services shall draw warrants  
 24 upon the Compulsive Gamblers Assistance Fund upon the presentation  
 25 of proper vouchers by the division. Money from the Compulsive  
 26 Gamblers Assistance Fund shall be used exclusively for the purpose  
 27 of providing assistance to agencies, groups, organizations, and  
 1 individuals that provide education, assistance, and counseling to  
 2 individuals and families experiencing difficulty as a result of  
 3 problem gambling, to promote the awareness of gamblers assistance  
 4 programs, and to pay the costs and expenses of the division and the  
 5 committee with regard to problem gambling. The division shall not  
 6 provide any direct services to problem gamblers or their families.  
 7 Funds appropriated from the Compulsive Gamblers Assistance Fund  
 8 shall not be granted or loaned to or administered by any regional  
 9 behavioral health authority unless the authority is a direct  
 10 provider of a problem gamblers assistance program. Any money in  
 11 the fund available for investment shall be invested by the state  
 12 investment officer pursuant to the Nebraska Capital Expansion Act  
 13 and the Nebraska State Funds Investment Act.  
 14 Sec. 3. Original sections 71-816 and 71-817, Revised  
 15 Statutes Cumulative Supplement, 2006, are repealed.  
 16 Sec. 4. Since an emergency exists, this act takes effect  
 17 when passed and approved according to law.

(Signed) Vickie McDonald, Chairperson

### **NOTICE OF COMMITTEE HEARING**

Natural Resources

Room 1525

Thursday, February 21, 2008 1:30 p.m.

Keim, Lon - Environmental Quality Council

(Signed) LeRoy Louden, Chairperson

### **COMMITTEE REPORT**

Education

The Education Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Clark Anderson - Coordinating Commission for Postsecondary Education

Aye: 8 Senators Adams, Ashford, Avery, Burling, Howard, Johnson, Kopplin, Raikes. Nay: 0. Absent: 0.

(Signed) Ron Raikes, Chairperson

**NOTICE OF COMMITTEE HEARINGS**  
Nebraska Retirement Systems

Room 1525

Thursday, March 27, 2008 12:00 p.m.

Nebraska Public Employees Retirement System Annual Report  
State Investment Officer Annual Report

(Signed) John Synowiecki, Chairperson

Health and Human Services

Room 1510

Wednesday, February 20, 2008 1:30 p.m.

LB1163 (cancel)

Wednesday, February 27, 2008 1:30 p.m.

LB1163 (reschedule)

(Signed) Joel Johnson, Chairperson

**MOTION - Print in Journal**

Senator Schimek filed the following motion to LB39:  
MO128

Becomes law notwithstanding the objections of the Governor.

**ANNOUNCEMENT**

The General Affairs Committee designates LB1058 as its priority bill.

**AMENDMENT - Print in Journal**

Senator Chambers filed the following amendment to LB782:  
AM1878

- 1 1. Insert the following section:
- 2 Section 1. Section 24-721, Revised Statutes Cumulative
- 3 Supplement, 2006, is amended to read:
- 4 24-721 Any citizen of the State of Nebraska shall
- 5 have the right at all times to complain to the Commission on
- 6 Judicial Qualifications with reference to the acts, activities,
- 7 or qualifications of any Justice or judge of the Supreme Court
- 8 or judge of any of the courts of the State of Nebraska or to
- 9 request that the commission consider the qualifications of any

10 Justice or judge of the Supreme Court or judge of any of the  
11 courts of the State of Nebraska. Upon receipt of any such complaint  
12 or request, the commission shall make such investigation as it  
13 determines to be necessary. The commission shall have the right  
14 to subpoena witnesses; to hold hearings; to require the Justice  
15 or judge to submit to physical or mental examination by medical  
16 experts; to appoint special masters to conduct hearings; to make  
17 independent investigations, either by members of the commission  
18 or by special investigators employed by the commission; to hold  
19 confidential prehearing proceedings with the person or persons  
20 filing the complaint or request, or with his or her or their agents  
21 or attorneys; and to hold confidential prehearing proceedings with  
22 the judge or Justice involved in the complaint or request. If  
23 the commission finds probable cause for the existence of any of  
1 the grounds for disciplinary action or retirement specified in  
2 section 24-722, it shall reprimand the Justice or judge or order a  
3 formal open hearing to be held before it concerning the reprimand,  
4 discipline, censure, suspension, removal, or retirement of such  
5 Justice or judge. ~~Any reprimand shall be public and shall be~~  
6 ~~announced in a fashion similar to that of a published opinion~~  
7 ~~of the Supreme Court.~~ A judge who receives official notice of a  
8 complaint or request pursuant to this section shall not be allowed  
9 to retire pursuant to the Judges Retirement Act until the matter is  
10 resolved by the commission or the Supreme Court, if the commission  
11 recommends action by the court. If a hearing is ordered, the  
12 commission shall advise the judge or Justice involved, in writing,  
13 of the specific charges which have been made and supported,  
14 substantiated, or revealed by the independent investigation of the  
15 commission. The judge or Justice shall be given reasonable time in  
16 which to formally answer such charges in writing and the matter  
17 shall then be set for formal open hearing, at which time the  
18 commission shall cause the testimony and the documentary evidence  
19 relating to the charges to be produced and recorded in such manner  
20 as the commission shall determine to be advisable, giving the judge  
21 or Justice involved and his or her attorney a full opportunity to  
22 question and cross-examine the witnesses and evidence so produced.  
23 The judge or Justice shall have an opportunity to produce at such  
24 hearing, testimony, evidence, and documents relating to the charges  
25 involved; thereafter any rebuttal evidence may be produced. In  
26 the alternative or in addition, the commission may request the  
27 Supreme Court to appoint one or more special masters who shall  
1 be judges of courts of record to hold a formal open hearing to  
2 take evidence in any such matter, and to report to the commission.  
3 Whenever any person shall refuse to testify or to produce books,  
4 papers, or other evidence when required to do so in any hearing  
5 held before the Commission on Judicial Qualifications or before a  
6 special master or masters appointed under the provisions of this  
7 section for the reason that the testimony or evidence required of  
8 him or her may tend to incriminate him or her or subject him or her

9 to a forfeiture or penalty, he or she may nevertheless be compelled  
10 to testify or produce such evidence by order of the Commission  
11 on Judicial Qualifications or special master or masters on motion  
12 of counsel to the commission. No person who testifies or produces  
13 evidence in obedience to the command of the commission or special  
14 master or masters in such case shall be liable to any forfeiture  
15 or penalty for or on account of any transaction, matter, or thing  
16 concerning or arising from that as to which he or she may so  
17 testify or produce evidence, nor shall such testimony or evidence  
18 be used directly or indirectly in any proceedings against him or  
19 her, except that no person shall be exempt from prosecution and  
20 punishment for perjury or contempt committed in so testifying. The  
21 requirement to testify or produce evidence shall not apply when  
22 such person proves the real and substantial danger of a prosecution  
23 against him or her in another jurisdiction based on the admissions  
24 to be made by him or her in this state. The commission or special  
25 master or masters shall have power to punish for contempt for any  
26 action specified in section 25-2121. If, after formal open hearing,  
27 or after considering the record and report of the masters, the  
1 commission finds that the charges are established by clear and  
2 convincing evidence, it shall recommend to the Supreme Court that  
3 the Justice or judge of the Supreme Court or other judge involved  
4 shall be reprimanded, disciplined, censured, suspended without pay  
5 for a definite period of time not to exceed six months, removed,  
6 or retired as the case may be. All hearings before the commission  
7 and all proceedings before masters and before the Supreme Court  
8 shall be conducted in accordance with rules promulgated or to be  
9 promulgated by the Supreme Court.

10 2. On page 7, line 5, strike "section" and insert  
11 "sections 24-721 and".

12 3. Renumber the remaining sections and correct internal  
13 references accordingly.

### **UNANIMOUS CONSENT - Add Cointroducers**

Senators Pedersen and Schimek asked unanimous consent to add their names as cointroducers to LB1092. No objections. So ordered.

### **VISITORS**

Visitors to the Chamber were members of AARP.

The Doctor of the Day was Dr. Dale Michels from Lincoln.

**ADJOURNMENT**

At 12:01 p.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Thursday, February 14, 2008.

Patrick J. O'Donnell  
Clerk of the Legislature